

LETTER
OF
C. R. A G N E W
ON
THE NEW YORK CODE.

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THE NEW YORK CODE.

To the Editor of THE MEDICAL NEWS.

SIR: In your brief comments upon my note to the *Louisville Medical News*, touching the existing New York Code of Medical Ethics, you quote from the editorial comments of that journal as follows: "We imagine the thoughtful reader will find no little difficulty in following Dr. Agnew through the premises which seem to have led him to the conclusion that to protect the public from quackery the medical profession should take the quacks into fellowship and thus publicly recognize them as physicians worthy of confidence and affiliation." It will take the intended sting out of the comment if I simply say that I have nowhere said anything that might fairly, even with the exercise of the imagination referred to, be construed into any such proposition. The existing Code in my State contains the following clauses: "Members of the Medical Society of the State of New York and of the medical societies in affiliation therewith, may meet in consultation legally qualified practitioners. Emergencies may occur in which all restrictions should, in the judgment of the practitioner, yield to the demands of humanity." Now, you will observe, that the first clause is permissive, not mandatory, and any member of the State society, or of affiliated societies, may avail himself of the liberty accorded or not, as he chooses, and its operation is confined to *legally* qualified doctors. The second, or emergency clause, as it has been called, simply authorizes a practitioner to answer any call,

regardless of whom he may come in contact with, regardless for the moment of the character, even, of that person, and bent only on doing a humane act. It is, of course, inferred that a member of a learned profession is sufficiently familiar with English to know the meaning of the word "emergencies." Nowhere is it proposed to take quacks into "fellowship." Fellowship means "companionship," "association," "confederacy," "communion," "intimate familiarity."

A legally qualified practitioner may, it is true, be a quack, if we adhere in strictness of definition to the accepted etymology of that word, but not one in the eyes of the law. A quack by nature is a "boaster," a "bouncer," a "noisy, ostentatious talker," as when a man parades his virtue and decries that of other men; a pretender to medical skill, "quacking, duck-like, about his cures," "an ignorant practitioner," an "empiric."

In the State of New York the statutes are such that if any man should apply the opprobrious term of "quack" to a man possessed of a diploma duly obtained from an authorized college, he might be made to smart in exemplary damages for it, even though the person so characterized were a "homœopathist" or an "eclectic."

The writer in the Louisville journal goes on to say that "the great principles of ethics and morals are immutable, and are altered neither by longitude nor latitude," etc. I suppose that we may take it for granted that no one will deny the idea of the principle of abstract right and wrong, which the writer probably intends to assert. The only real test, after all, in morals, is "What saith the Lord?" and we cannot get away from the correlative fact that "Where the spirit of the Lord is, there is liberty." I would like to know what violation of *good morals* there would be in my meeting in consultation, for a beneficent purpose, in the State of New York, a man pronounced by the authority of the State to be a "*legally qualified practitioner.*" We must bring the matter down to some such simple test. I am not compelled to meet any one in consultation. I may, for reasons personal to myself, refuse to meet the very embodiment of all the native qualities of Hippocrates, but I will, at my peril, refuse to meet a

“legally qualified practitioner,” if I couple with my declination, the assertion that he is a quack. Such a person suing me for libel in the courts of the State of New York would easily get exemplary damages; indeed, such decisions have been made, and I am glad of it, as it marks a step of progress from barbarism and mob law, and in the direction of teaching men to bridle their tongues. Things are said in medical journals, and elsewhere, in apparently safe retreats, which the writers would not dare to utter in the presence of the individuals at whom the acrimonious utterances are directly or indirectly aimed, or in the presence of an officer of the law.

You say also, “Dr. Agnew unfortunately fails to point out how the new Code is going to influence these reforms,” etc., etc. I have repeatedly endeavored to show how it may do so, but especially by displacing the old Code, and no one is more conscious than myself of the imperfection of my attempt, or of the general feebleness of my advocacy. Fortunately, however, a good cause has germinal qualities of its own, which cannot often be roasted out of it by the heat of controversy, or blasted by the insufficiency of its adherents and advocates. So long as we attempt to defend the public against quackery by mere proscriptive codes of our own professional making, we are attempting, as it were, to put out a fire with a garden syringe. Every one knows that the old Code had lost its punitive power with the very growth of society, advance of legislation, and practical ethics. In attempting to assert this I laid myself open to the strictures of my *Louisville Medical News*' critic. When the State undertook to express, in the form of statutes, as in my State in the statute of 1880, what a legally qualified practitioner was, that moment all definitions in our old Code as to what a legal doctor was, which conflicted with the statute, became inoperative and cumbersome, if not ridiculous.

It is a great step in the right direction to have the State assume the responsibility of determining who a legally qualified doctor is. Now, what are we to do in the State of New York? Practise under the law, and by experience of its workings learn to make it better. Enforce the law as it is, and have it amended whenever defects are discovered.

This course is being pursued with more or less success now, not only in New York, but in over twenty States and Territories of the United States. Nearly two thousand medical tramps have been driven out of Illinois alone, by the operation of its registry law. The paragraph on page 699 in your issue of the 16th, shows what we are doing in New York.

We intend to make it too hot here for quacks and outlaws, and trust that after Pennsylvania sees how well the law works your journal may advocate the enactment of a similar law, or a better one. We cannot, in our State, have the *imperium in imperio* certain to result if the State Society which derives its life and authority from the State is practically in opposition to the State. Especially is this so when the latter goes as far as public opinion has demanded in fixing the legal qualifications for practising medicine. We must, with the whole body of legally qualified doctors, sustain the State law and cultivate public opinion as rapidly as possible to make the law better and better. We will give great aid, moreover, by pushing on reforms in medical education, and supplying from our medical schools a better type of doctors as instructors of the people. We wish to encourage, in every way, rivalry between the States in perfecting laws against quacks till we reach a point where a quack will become a mere tramp. Results thought by many to be as utopian have been accomplished. We need, at the same time, each man for himself to examine his own conscience to see how far he may be, at heart or in acts, more or less a quack. Do we never boast or talk ostentatiously about ourselves and decry our medical neighbors? Do we never in medical journals or elsewhere pretend to have virtue and skill which we do not really possess? Let us remember the fable of Valentine and Orson. Let us hold up in our own lives the "burnished shield" of evidence and conquer our brother by the reflection of his imperfections. If we self-called regulars were ourselves less marred by the blemishes we see in quacks, we perhaps might do more good in leading legislators to embody true reform, and high ideals, in better laws for the public good.

Yours faithfully,

C. R. AGNEW.

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